



February 20, 2004

ENGROSSED SENATE BILL No. 344

DIGEST OF SB 344 (Updated February 17, 2004 5:50 pm - DI 92)

Citations Affected: IC 6-1.1; IC 6-3; IC 6-5.5; IC 36-10; noncode.

Synopsis: Various tax matters. Grants a property tax exemptions to nonprofit organizations engaged in the Indiana main street program. Provides that references to the Internal Revenue Code in Indiana law refer to the federal law as in effect on January 1, 2004. Indicates that the law that requires certain bonus depreciation allowed for federal income tax purposes to be added back for state tax purposes applies to the special depreciation allowance for 50-percent bonus depreciation property. Requires that "Section 179 property" deductions in excess of \$25,000 per year that are allowed for federal income tax purposes be added back for state tax purposes. Provides that the Gary civic center board of managers may receive salaries and a per diem in addition to expense reimbursement. Allows certain taxpayers to retroactively claim missed property tax exemptions.

Effective: January 1, 2001 (retroactive); January 1, 2004 (retroactive); upon passage.

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(HOUSE SPONSORS — MURPHY, MAYS)

January 12, 2004, read first time and referred to Committee on Finance.

January 22, 2004, reported favorably — Do Pass.

January 26, 2004, read second time, ordered engrossed. Engrossed.

January 29, 2004, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Ways and Means.

February 19, 2004, amended, reported — Do Pass.

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ES 344—LS 7120/DI 51+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 344

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 44. Tangible property is exempt from**
4 **property taxation if it is owned by an Indiana nonprofit**
5 **corporation that is:**

6 (1) **organized and operated for the primary purpose of:**

7 (A) **encouraging the economic development,**
8 **redevelopment, and improvement of downtown areas in**
9 **one (1) or more Indiana cities and towns in all geographic**
10 **regions of the state;**

11 (B) **sponsoring demonstration efforts in one (1) or more**
12 **Indiana cities and towns; or**

13 (C) **providing technical assistance and sponsoring seminars**
14 **and other educational programs on downtown area**
15 **revitalization, development, and redevelopment; and**

16 (2) **recognized in a resolution adopted by the Indiana main**
17 **street council (IC 4-4-16-2) as an organization that is engaged**

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**in furthering the purposes of the Indiana main street program
specified in IC 4-4-16-1.**

SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004,
SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this
article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as
defined in Section 62 of the Internal Revenue Code), modified as
follows:

(1) Subtract income that is exempt from taxation under this article
by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed
or allowable pursuant to Section 62 of the Internal Revenue Code
for taxes based on or measured by income and levied at the state
level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a
joint return filed by a husband and wife, subtract for each spouse
one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the
Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of
the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by
the taxpayer and if the spouse, for the calendar year in which
the taxable year of the taxpayer begins, has no gross income
and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the
exemptions allowed under Section 151(c)(1)(B) of the Internal
Revenue Code for taxable years beginning after December 31,
1996; and

(B) five hundred dollars (\$500) for each additional amount
allowable under Section 63(f)(1) of the Internal Revenue Code
if the adjusted gross income of the taxpayer, or the taxpayer
and the taxpayer's spouse in the case of a joint return, is less
than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under
subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as
defined in Section 62 of the Internal Revenue Code) for that

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taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of

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a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

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(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal

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Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

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(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal

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to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 3. IC 6-3-1-11, AS AMENDED BY P.L.105-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2003~~ **2004**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2003~~ **2004**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2003~~ **2004**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2003~~ **2004**, that is effective for any taxable year that began before January 1, ~~2003~~ **2004**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

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(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 4. IC 6-3-1-33, AS ADDED BY P.L.105-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 5. IC 6-5.5-1-2, AS AMENDED BY P.L.105-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in

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Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

~~(E) Subtract~~ (E) **Subtract** The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not

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1 been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the
 2 Internal Revenue Code to apply bonus depreciation.

3 **(F) The amount necessary to make the adjusted gross**
 4 **income of any taxpayer that placed Section 179 property**
 5 **(as defined in Section 179 of the Internal Revenue Code) in**
 6 **service in the current taxable year or in an earlier taxable**
 7 **year equal to the amount of adjusted gross income that**
 8 **would have been computed had an election for federal**
 9 **income tax purposes not been made for the year in which**
 10 **the property was placed in service to take deductions**
 11 **under Section 179 of the Internal Revenue Code in an**
 12 **aggregate amount exceeding twenty-five thousand dollars**
 13 **(\$25,000).**

14 (b) In the case of a credit union, "adjusted gross income" for a
 15 taxable year means the total transfers to undivided earnings minus
 16 dividends for that taxable year after statutory reserves are set aside
 17 under IC 28-7-1-24.

18 (c) In the case of an investment company, "adjusted gross income"
 19 means the company's federal taxable income multiplied by the quotient
 20 of:

21 (1) the aggregate of the gross payments collected by the company
 22 during the taxable year from old and new business upon
 23 investment contracts issued by the company and held by residents
 24 of Indiana; divided by

25 (2) the total amount of gross payments collected during the
 26 taxable year by the company from the business upon investment
 27 contracts issued by the company and held by persons residing
 28 within Indiana and elsewhere.

29 (d) As used in subsection (c), "investment company" means a
 30 person, copartnership, association, limited liability company, or
 31 corporation, whether domestic or foreign, that:

32 (1) is registered under the Investment Company Act of 1940 (15
 33 U.S.C. 80a-1 et seq.); and

34 (2) solicits or receives a payment to be made to itself and issues
 35 in exchange for the payment:

36 (A) a so-called bond;

37 (B) a share;

38 (C) a coupon;

39 (D) a certificate of membership;

40 (E) an agreement;

41 (F) a pretended agreement; or

42 (G) other evidences of obligation;

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entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 6. IC 6-5.5-1-20, AS ADDED BY P.L.105-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 7. IC 36-10-11-33, AS AMENDED BY P.L.178-2002, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) One (1) manager for a term of two (2) years.
- (3) One (1) manager for a term of three (3) years.

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The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

(1) One (1) manager for a term of one (1) year.

(2) Two (2) managers for terms of two (2) years.

(3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers may ~~not~~ receive salaries ~~but~~ **and a per diem and** shall be reimbursed for any expenses necessarily incurred in the performance of their duties.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum.

SECTION 8. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]
IC 6-3-1-3.5, IC 6-3-1-11, and IC 6-5.5-1-2, all as amended by this act, apply only to taxable years beginning after December 31, 2003.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) **A religious institution may file an application under IC 6-1.1-11 before May 11, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:**

(1) **the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001 or 2002;**

(2) **the religious institution acquired the real property in 1999; and**

(3) **the real property was exempt from property taxes for property taxes first due and payable in 2000.**

(b) **If a religious institution files an exemption application under subsection (a):**

(1) **the exemption application is subject to review and action by:**

(A) **the county property tax assessment board of appeals; and**

(B) **the department of local government finance; and**

(2) **the exemption determination made under subdivision (1) is subject to appeal;**

in the same manner that would have applied if an application for

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1 exemption had been timely filed in 2000 and 2001.

2 (c) If an exemption application filed under subsection (a) is
3 approved, the religious institution may file a claim under
4 IC 6-1.1-26-1 with the county auditor for a refund for any payment
5 of property taxes first due and payable in 2001 and for any
6 payment of property taxes first due and payable in 2002, including
7 any paid interest and penalties, with respect to the exempt
8 property.

9 (d) Upon receiving a claim for a refund filed under subsection
10 (c), the county auditor shall determine whether the claim is correct.
11 If the county auditor determines that the claim is correct, the
12 auditor shall, without an appropriation being required, issue a
13 warrant to the claimant payable from the county general fund for
14 the amount of the refund due the claimant. No interest is payable
15 on the refund.

16 (e) This SECTION expires January 1, 2005.

17 SECTION 10. [EFFECTIVE JANUARY 1, 2001
18 (RETROACTIVE)] (a) This SECTION applies notwithstanding the
19 following:

20 IC 6-1.1-3-7.5
21 IC 6-1.1-10-10
22 IC 6-1.1-10-13
23 IC 6-1.1-10-31.1
24 IC 6-1.1-11
25 IC 6-1.1-12.1-5.4
26 50 IAC 4.2-11
27 50 IAC 4.2-12-1
28 50 IAC 10-3
29 50 IAC 16.

30 (b) As used in this SECTION, "taxpayer" means a taxpayer in
31 a county containing a consolidated city that filed:

32 (1) an original personal property tax return under IC 6-1.1-3
33 for the March 1, 2001, assessment date using a consolidated
34 return, Form 103-C; and
35 (2) before March 1, 2003, a Form 133 petition for correction
36 of an error with respect to the assessed value of the taxpayer's
37 personal property on the March 1, 2001, assessment date.

38 (c) Before January 1, 2005, a taxpayer may file an amended
39 personal property tax return for the March 1, 2001, assessment
40 date.

41 (d) A taxpayer that files an amended personal property tax
42 return under subsection (c) is entitled to the following exemptions

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for the March 1, 2001, assessment date:

(1) An exemption for an industrial waste control facility under IC 6-1.1-10-9.

(2) An exemption for an air pollution control system under IC 6-1.1-10-12.

(3) An exemption for tangible personal property under IC 6-1.1-10-29, as in effect on March 1, 2001.

(4) An exemption for tangible personal property under IC 6-1.1-10-29.3.

(5) An exemption for tangible personal property under IC 6-1.1-10-30.

(e) The amount of an exemption described in subsection (d)(1) or (d)(2) is based on the total cost of the industrial waste control facility or air pollution control system reported by the taxpayer on a Form 103-P that must be filed with the amended personal property tax return filed under subsection (c).

(f) The total amount of the exemptions described in subsection (d)(3) through (d)(5) is:

- (1) the total cost of the taxpayer's finished goods reported on Schedule B, line 3 of the taxpayer's amended personal property tax return filed under subsection (c); multiplied by
- (2) the ratio reported by the taxpayer on the Form 103-W filed with the taxpayer's amended personal property tax return.

(g) Before January 1, 2005, a taxpayer may file with the county auditor an application for a deduction from assessed valuation for new manufacturing equipment in an economic revitalization area for the March 1, 2001, assessment date. The taxpayer shall include all necessary attachments to the deduction application.

(h) If a taxpayer files an amended personal property tax return under subsection (c) and a deduction application described in subsection (g), the taxpayer is entitled to a credit in the amount of the taxes paid by the taxpayer on the remainder of:

- (1) the assessed value reported on the taxpayer's original personal property tax return for the March 1, 2001, assessment date; minus
- (2) the assessed value reported on the taxpayer's amended personal property tax return for the March 1, 2001, assessment date filed under subsection (c); minus
- (3) the amount of the deduction from assessed valuation claimed by the taxpayer on an application filed under subsection (g).

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(i) The county auditor shall reduce the amount of the credit to which a taxpayer is entitled under subsection (h) by the amount of any property tax refunds paid:

(1) to the taxpayer for personal property taxes based on the March 1, 2001, assessment date; and

(2) before the date the taxpayer files an amended personal property tax return under subsection (c).

(j) Notwithstanding IC 6-1.1-26, the county auditor shall apply a credit allowed under this SECTION against the taxpayer's property tax liability for property taxes first due and payable in 2004 and in each year thereafter until the credit is exhausted. However, the county auditor may refund the remaining credit amount at any time before the credit is exhausted.

(k) A taxpayer is not required to file a separate application for the credit allowed under subsection (h).

(l) This SECTION expires January 1, 2007.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) A religious institution may file an application under IC 6-1.1-11 before August 1, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001, 2002, 2003, and 2004 if:

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001, 2002, 2003, or 2004;

(2) the religious institution acquired the real property in 2000 from another religious institution;

(3) the real property was exempt from property taxes for property taxes first due and payable in 2000; and

(4) the religious institution:

(A) acquired the real property under a contract with a religious institution;

(B) has occupied the real property for each of the years described in subdivision (1); and

(C) has used the real property for its religious purposes in each of the years described in subdivision (1).

(b) If a religious institution files an exemption application under subsection (a):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

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1 (B) the department of local government finance; and
 2 (2) the exemption determination made under subdivision (1)
 3 is subject to appeal;
 4 in the same manner that would have applied if an application for
 5 exemption had been timely filed in 2000, 2001, 2002, and 2003.

6 (c) The religious institution may file a claim under IC 6-1.1-26-1
 7 with the county auditor for a refund for any payment of property
 8 taxes first due and payable in 2001, 2002, 2003, and 2004, including
 9 any paid interest and penalties, with respect to the exempt
 10 property if:

11 (1) an exemption application filed under subsection (a) is
 12 approved; and

13 (2) the religious institution has paid any property taxes in
 14 2001, 2002, 2003, and 2004 attributable to the exempt
 15 property.

16 (d) Upon receiving a claim for a refund filed under subsection
 17 (c), the county auditor shall determine whether the claim is correct.
 18 If the county auditor determines that the claim is correct, the
 19 auditor shall, without an appropriation being required, issue a
 20 warrant to the claimant payable from the county general fund for
 21 the amount of the refund due the claimant. No interest is payable
 22 on the refund.

23 (e) If:

24 (1) the religious institution incurred property tax liabilities in
 25 2001, 2002, 2003, and 2004 because of the failure to properly
 26 apply for a property tax exemption for the religious
 27 institution's real property described in subsection (a); and

28 (2) an exemption application filed under subsection (a) is
 29 approved;

30 the county treasurer of the county in which the real property is
 31 located shall forgive the property taxes, penalties, and interest
 32 charged to the religious institution for the exempt property in 2001,
 33 2002, 2003, and 2004.

34 (f) This SECTION expires January 1, 2005.

35 SECTION 12. [EFFECTIVE UPON PASSAGE] (a) This
 36 SECTION applies only to a nonprofit corporation that would be
 37 exempt from property taxation under IC 6-1.1-10-44, as added by
 38 this act, if IC 6-1.1-10-44, as added by this act, had been in effect
 39 for an assessment date in 2001, 2002, or 2003.

40 (b) The definitions in IC 6-1.1-1 apply throughout this
 41 SECTION.

42 (c) A nonprofit corporation may file an application under

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1 IC 6-1.1-11 before May 11, 2004, for exemption of tangible
 2 property for property taxes first due and payable in any
 3 combination of 2002, 2003, or 2004 if the nonprofit corporation is
 4 described in subsection (a).

5 (d) If a nonprofit corporation files an exemption application
 6 under subsection (c):

7 (1) the exemption application is subject to review and action
 8 by:

9 (A) the county property tax assessment board of appeals;
 10 and

11 (B) the department of local government finance; and

12 (2) the exemption determination made under subdivision (1)
 13 is subject to appeal;

14 in the same manner that would have applied if an application for
 15 exemption had been timely filed in 2001, 2002, or 2003.

16 (e) If an exemption application filed under subsection (c) is
 17 approved:

18 (1) the exemption applies to the years covered by the
 19 application to the same extent as if the application had been
 20 filed in a timely manner; and

21 (2) if the nonprofit corporation paid any property taxes for a
 22 year covered by the exemption, the nonprofit corporation may
 23 file a claim under IC 6-1.1-26-1 with the county auditor for a
 24 refund of the payment, including any paid interest and
 25 penalties, with respect to the exempt property.

26 (f) Upon receiving a claim for a refund filed under subsection
 27 (e), the county auditor shall determine whether the claim is correct.
 28 If the county auditor determines that the claim is correct, the
 29 auditor shall, without an appropriation being required, issue a
 30 warrant to the claimant payable from the county general fund for
 31 the amount of the refund due the claimant. No interest is payable
 32 on the refund.

33 (g) This SECTION expires January 1, 2005.

34 SECTION 13. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Finance, to which was referred Senate Bill No. 344, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 344 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 14, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 344, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Page 1, delete lines 1 through 18.

Page 2, delete lines 1 through 28, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 44. Tangible property is exempt from property taxation if it is owned by an Indiana nonprofit corporation that is:**

(1) **organized and operated for the primary purpose of:**

(A) **encouraging the economic development, redevelopment, and improvement of downtown areas in one (1) or more Indiana cities and towns in all geographic regions of the state;**

(B) **sponsoring demonstration efforts in one (1) or more Indiana cities and towns; or**

(C) **providing technical assistance and sponsoring seminars and other educational programs on downtown area revitalization, development, and redevelopment; and**

(2) **recognized in a resolution adopted by the Indiana main street council (IC 4-4-16-2) as an organization that is engaged in furthering the purposes of the Indiana main street program specified in IC 4-4-16-1.**

SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

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(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross

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income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's

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principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made

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under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal

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income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

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(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(4) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 3. IC 6-3-1-11, AS AMENDED BY P.L.105-2003,

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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2003~~; **2004**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2003~~; **2004**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2003~~; **2004**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2003~~; **2004**, that is effective for any taxable year that began before January 1, ~~2003~~; **2004**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 4. IC 6-3-1-33, AS ADDED BY P.L.105-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation**

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allowance for 50-percent bonus depreciation property.

SECTION 5. IC 6-5.5-1-2, AS AMENDED BY P.L.105-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(H) Add the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property

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(as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) ~~Subtract~~ The amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section ~~168(k)(2)(C)(iii)~~ **168(k)** of the Internal Revenue Code to apply bonus depreciation.

(F) The amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in an aggregate amount exceeding twenty-five thousand dollars (\$25,000).

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus

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dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

- (1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by
- (2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

- (1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
- (2) solicits or receives a payment to be made to itself and issues in exchange for the payment:
 - (A) a so-called bond;
 - (B) a share;
 - (C) a coupon;
 - (D) a certificate of membership;
 - (E) an agreement;
 - (F) a pretended agreement; or
 - (G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 6. IC 6-5.5-1-20, AS ADDED BY P.L.105-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 20. As used in this

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article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code, **including the special depreciation allowance for 50-percent bonus depreciation property.**

SECTION 7. IC 36-10-11-33, AS AMENDED BY P.L.178-2002, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) The fiscal body of the lessee shall adopt an ordinance creating a board of five (5) members to be known as the "Civic Center Board of Managers". The board of managers shall supervise, manage, operate, and maintain a building and its programs.

(b) A person appointed to the board of managers must be at least twenty-one (21) years of age and a resident of the lessee governmental entity for at least five (5) years. If the lessee is a city, three (3) of the managers shall be appointed by the city executive, and two (2) of the managers shall be appointed by the city legislative body. If the lessee is not a city, all five (5) managers shall be appointed by the fiscal body of the lessee. An officer or employee of a political subdivision may not serve as a manager. The managers serve for terms of three (3) years.

(c) Notwithstanding subsection (b), if the lessee is a city, initial terms of the managers appointed by the executive are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) One (1) manager for a term of two (2) years.
- (3) One (1) manager for a term of three (3) years.

The initial term of one (1) of the managers appointed by the legislative body is two (2) years, and the other is three (3) years.

(d) Notwithstanding subsection (b), if the lessee is not a city, initial terms of the managers are as follows:

- (1) One (1) manager for a term of one (1) year.
- (2) Two (2) managers for terms of two (2) years.
- (3) Two (2) managers for terms of three (3) years.

(e) A manager may be removed for cause by the appointing authority. Vacancies shall be filled by the appointing authority, and any person appointed to fill a vacancy serves for the remainder of the vacated term. The managers may ~~not~~ receive salaries ~~but~~ **and a per diem and** shall be reimbursed for any expenses necessarily incurred in the performance of their duties.

(f) The board of managers shall annually elect officers to serve during the calendar year. The board of managers may adopt resolutions

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and bylaws governing its operations and procedure and may hold meetings as often as necessary to transact business and to perform its duties. A majority of the managers constitutes a quorum.

SECTION 8. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] IC 6-3-1-3.5, IC 6-3-1-11, and IC 6-5.5-1-2, all as amended by this act, apply only to taxable years beginning after December 31, 2003.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) A religious institution may file an application under IC 6-1.1-11 before May 11, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001 and 2002 if:

- (1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001 or 2002;**
- (2) the religious institution acquired the real property in 1999; and**
- (3) the real property was exempt from property taxes for property taxes first due and payable in 2000.**

(b) If a religious institution files an exemption application under subsection (a):

- (1) the exemption application is subject to review and action by:**
 - (A) the county property tax assessment board of appeals; and**
 - (B) the department of local government finance; and**
- (2) the exemption determination made under subdivision (1) is subject to appeal;**

in the same manner that would have applied if an application for exemption had been timely filed in 2000 and 2001.

(c) If an exemption application filed under subsection (a) is approved, the religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001 and for any payment of property taxes first due and payable in 2002, including any paid interest and penalties, with respect to the exempt property.

(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

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(e) This SECTION expires January 1, 2005.

SECTION 10. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)] (a) This SECTION applies notwithstanding the following:

**IC 6-1.1-3-7.5
IC 6-1.1-10-10
IC 6-1.1-10-13
IC 6-1.1-10-31.1
IC 6-1.1-11
IC 6-1.1-12.1-5.4
50 IAC 4.2-11
50 IAC 4.2-12-1
50 IAC 10-3
50 IAC 16.**

(b) As used in this SECTION, "taxpayer" means a taxpayer in a county containing a consolidated city that filed:

- (1) an original personal property tax return under IC 6-1.1-3 for the March 1, 2001, assessment date using a consolidated return, Form 103-C; and**
- (2) before March 1, 2003, a Form 133 petition for correction of an error with respect to the assessed value of the taxpayer's personal property on the March 1, 2001, assessment date.**

(c) Before January 1, 2005, a taxpayer may file an amended personal property tax return for the March 1, 2001, assessment date.

(d) A taxpayer that files an amended personal property tax return under subsection (c) is entitled to the following exemptions for the March 1, 2001, assessment date:

- (1) An exemption for an industrial waste control facility under IC 6-1.1-10-9.**
- (2) An exemption for an air pollution control system under IC 6-1.1-10-12.**
- (3) An exemption for tangible personal property under IC 6-1.1-10-29, as in effect on March 1, 2001.**
- (4) An exemption for tangible personal property under IC 6-1.1-10-29.3.**
- (5) An exemption for tangible personal property under IC 6-1.1-10-30.**

(e) The amount of an exemption described in subsection (d)(1) or (d)(2) is based on the total cost of the industrial waste control facility or air pollution control system reported by the taxpayer on a Form 103-P that must be filed with the amended personal

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property tax return filed under subsection (c).

(f) The total amount of the exemptions described in subsection (d)(3) through (d)(5) is:

- (1) the total cost of the taxpayer's finished goods reported on Schedule B, line 3 of the taxpayer's amended personal property tax return filed under subsection (c); multiplied by
- (2) the ratio reported by the taxpayer on the Form 103-W filed with the taxpayer's amended personal property tax return.

(g) Before January 1, 2005, a taxpayer may file with the county auditor an application for a deduction from assessed valuation for new manufacturing equipment in an economic revitalization area for the March 1, 2001, assessment date. The taxpayer shall include all necessary attachments to the deduction application.

(h) If a taxpayer files an amended personal property tax return under subsection (c) and a deduction application described in subsection (g), the taxpayer is entitled to a credit in the amount of the taxes paid by the taxpayer on the remainder of:

- (1) the assessed value reported on the taxpayer's original personal property tax return for the March 1, 2001, assessment date; minus
- (2) the assessed value reported on the taxpayer's amended personal property tax return for the March 1, 2001, assessment date filed under subsection (c); minus
- (3) the amount of the deduction from assessed valuation claimed by the taxpayer on an application filed under subsection (g).

(i) The county auditor shall reduce the amount of the credit to which a taxpayer is entitled under subsection (h) by the amount of any property tax refunds paid:

- (1) to the taxpayer for personal property taxes based on the March 1, 2001, assessment date; and
- (2) before the date the taxpayer files an amended personal property tax return under subsection (c).

(j) Notwithstanding IC 6-1.1-26, the county auditor shall apply a credit allowed under this SECTION against the taxpayer's property tax liability for property taxes first due and payable in 2004 and in each year thereafter until the credit is exhausted. However, the county auditor may refund the remaining credit amount at any time before the credit is exhausted.

(k) A taxpayer is not required to file a separate application for the credit allowed under subsection (h).

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(l) This SECTION expires January 1, 2007.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) A religious institution may file an application under IC 6-1.1-11 before August 1, 2004, for exemption of one (1) or more parcels of real property for property taxes first due and payable in 2001, 2002, 2003, and 2004 if:

(1) the religious institution did not file an application under IC 6-1.1-11 for exemption of the real property with respect to property taxes first due and payable in 2001, 2002, 2003, or 2004;

(2) the religious institution acquired the real property in 2000 from another religious institution;

(3) the real property was exempt from property taxes for property taxes first due and payable in 2000; and

(4) the religious institution:

(A) acquired the real property under a contract with a religious institution;

(B) has occupied the real property for each of the years described in subdivision (1); and

(C) has used the real property for its religious purposes in each of the years described in subdivision (1).

(b) If a religious institution files an exemption application under subsection (a):

(1) the exemption application is subject to review and action by:

(A) the county property tax assessment board of appeals; and

(B) the department of local government finance; and

(2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2000, 2001, 2002, and 2003.

(c) The religious institution may file a claim under IC 6-1.1-26-1 with the county auditor for a refund for any payment of property taxes first due and payable in 2001, 2002, 2003, and 2004, including any paid interest and penalties, with respect to the exempt property if:

(1) an exemption application filed under subsection (a) is approved; and

(2) the religious institution has paid any property taxes in 2001, 2002, 2003, and 2004 attributable to the exempt property.

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(d) Upon receiving a claim for a refund filed under subsection (c), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(e) If:

- (1) the religious institution incurred property tax liabilities in 2001, 2002, 2003, and 2004 because of the failure to properly apply for a property tax exemption for the religious institution's real property described in subsection (a); and
- (2) an exemption application filed under subsection (a) is approved;

the county treasurer of the county in which the real property is located shall forgive the property taxes, penalties, and interest charged to the religious institution for the exempt property in 2001, 2002, 2003, and 2004.

(f) This SECTION expires January 1, 2005.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies only to a nonprofit corporation that would be exempt from property taxation under IC 6-1.1-10-44, as added by this act, if IC 6-1.1-10-44, as added by this act, had been in effect for an assessment date in 2001, 2002, or 2003.

(b) The definitions in IC 6-1.1-1 apply throughout this SECTION.

(c) A nonprofit corporation may file an application under IC 6-1.1-11 before May 11, 2004, for exemption of tangible property for property taxes first due and payable in any combination of 2002, 2003, or 2004 if the nonprofit corporation is described in subsection (a).

(d) If a nonprofit corporation files an exemption application under subsection (c):

- (1) the exemption application is subject to review and action by:
 - (A) the county property tax assessment board of appeals; and
 - (B) the department of local government finance; and
- (2) the exemption determination made under subdivision (1) is subject to appeal;

in the same manner that would have applied if an application for exemption had been timely filed in 2001, 2002, or 2003.

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(e) If an exemption application filed under subsection (c) is approved:

(1) the exemption applies to the years covered by the application to the same extent as if the application had been filed in a timely manner; and

(2) if the nonprofit corporation paid any property taxes for a year covered by the exemption, the nonprofit corporation may file a claim under IC 6-1.1-26-1 with the county auditor for a refund of the payment, including any paid interest and penalties, with respect to the exempt property.

(f) Upon receiving a claim for a refund filed under subsection (e), the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount of the refund due the claimant. No interest is payable on the refund.

(g) This SECTION expires January 1, 2005."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 344 as printed January 23, 2004.)

CRAWFORD, Chair

Committee Vote: yeas 24, nays 0.

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